IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

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| DAVID T., | ) | |
| | ) | 2 CA-JV 2006-0040 |
| Appellant, | ) | DEPARTMENT A |
| | ) | |
| v. | ) | MEMORANDUM DECISION |
| | ) | Not for Publication |
| LAURA E. and ARIELLA B., | ) | Rule 28, Rules of Civil |
| | ) | Appellate Procedure |
| Appellees. | ) | |
| | ) | |

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. S-17564699

Honorable Jane L. Eikleberry, Judge

AFFIRMED

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Jacqueline Rohr
Tucson
Attorney for Appellant

McCarthy & Associates, P.L.L.C.
By Michael C. Johnson
Tucson
Attorneys for Appellees

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V Á S Q U E Z, Judge.

**¶1** Appellant David T. appeals from the juvenile court's July 2006 order terminating his parental rights to his daughter, Ariella B., born May 2, 2001. He contends

the evidence was insufficient to support the juvenile court's findings that he had abandoned Ariella and that termination of his parental rights was in her best interests. We affirm.

**¶2** In reviewing a claim of insufficiency, we view the evidence in the light most favorable to upholding the juvenile court's findings. *See Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, ¶ 20, 995 P.2d 682, 686 (2000). We do not reweigh the evidence, but determine only whether any reasonable evidence supports the court's findings. *Id*. We will disturb a termination order only if it is clearly erroneous. *See In re Pima County Juvenile Action No. S-2462*, 162 Ariz. 536, 539, 785 P.2d 56, 59 (App. 1989).

**¶3** Appellee Laura E. is Ariella's mother. In October 2005, she petitioned the juvenile court to terminate David's parental rights, alleging that he had abandoned Ariella. "Abandoned" is statutorily defined as a parent's failure

> to provide reasonable support and to maintain regular contact with the child, including providing normal supervision. Abandoned includes a judicial finding that a parent has made only minimal efforts to support and communicate with the child. Failure to maintain a normal parental relationship with the child without just cause for a period of six months constitutes prima facie evidence of abandonment.

A.R.S. § 8-201(1). Laura alleged in an amended petition that David had failed to maintain contact with Ariella and had not provided support for her since January 8, 2005. The petition also alleged terminating David's rights would be in Ariella's best interests because Laura's fiancé, whom she intended to wed in April 2006, had "stood in 'loco parentis' to the child for the last three and a half years" and wished to adopt Ariella.

**¶4** In support of the petition, Laura testified that, immediately after the couple's separation in September 2001, David had failed to contact her until March 2002. In March, Laura and David discussed creating a schedule for him to see Ariella, and Laura began keeping a log of David's visitation and child support payments. This log was admitted in evidence at trial. The log reflects that during 2002 and 2003, David visited Ariella somewhat regularly, but typically not for periods of time exceeding one and one-half hours, and that he also provided some financial support during this time. In 2004, however, David visited Ariella only three times and provided no support. He last saw her on January 8, 2005, at which time he paid $100 for her support. In January 2006, after the termination proceedings were underway, David and Laura had a confrontation at Laura's home, but Laura would no longer allow David to see Ariella. She avoided him on one other occasion when a chance meeting occurred at a restaurant. By the time of the contested termination hearing in July, David had provided no support since January 2005.

**¶5** David also testified at the hearing and disputed Laura's version of events and the veracity of the visitation and support log she had kept. In addition, a social study prepared in March 2006 by child welfare consultant Carmen Juarez was admitted in evidence, which showed David had provided health insurance for Ariella from the time she was two months old until January 31, 2006, when he terminated his employment with the company through which Ariella's insurance had been provided. According to Juarez's report, David failed to tell Laura when Ariella's health insurance expired, which left Ariella

suddenly without medical coverage. Juarez's detailed report concluded with the recommendation that the juvenile court terminate David's parental rights and stated that severance and an anticipated adoption by Laura's current husband was "the most appropriate permanent plan for Ariella." Juarez testified at the termination hearing and was cross-examined by counsel for both David and Ariella.

**¶6** Before severing parental rights, the juvenile court must find by clear and convincing evidence any one of the statutory grounds listed in A.R.S. § 8-533(B) and, by a preponderance of evidence, that severance is in the child's best interests. *See Kent K. v. Bobby M.*, 210 Ariz. 279, ¶ 22, 110 P.3d 1013, 1018 (2005). That a parent has abandoned a child is a ground for termination of parental rights, § 8-533(B)(1), and evidence that a current adoptive plan for the child exists has been recognized as a factor sufficient to justify a court's finding that termination of parental rights is in the child's best interests, *see Arizona Department of Economic Security v. Oscar O.*, 209 Ariz. 332, ¶ 6, 100 P.3d 943, 945 (App. 2004).

**¶7** On appeal, David bases his challenge to the sufficiency of the evidence that he had abandoned Ariella on his attacks on Laura's credibility and the weight of Juarez's testimony and recommendations, suggesting Juarez had inadequate information upon which to base her opinions. Similarly, he contends there was insufficient evidence to support the juvenile court's best interests finding, based primarily on the evidence that Ariella "knows" him and that Juarez had recommended the parties establish a plan for dealing with "future

unexpected contacts" with paternal relatives in a manner that would be in her best interests. David strongly implies the juvenile court based its determination that termination of his parental rights was in Ariella's best interests on a need for "expediency" in fact finding rather than on the evidence before it.

**¶8** We find no support in the record for that accusation, nor do we engage in the credibility determinations and reweighing of evidence David asks of us. *Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 4, 53 P.3d 203, 205 (App. 2002) (juvenile court, as trier of fact, in best position to weigh evidence, judge credibility of witness, and make appropriate findings). Reasonable evidence supports the juvenile court's findings. We therefore affirm the order terminating David's parental rights to Ariella.

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GARYE L. VÁSQUEZ, Judge

CONCURRING:

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JOHN PELANDER, Chief Judge

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JOSEPH W. HOWARD, Presiding Judge